



Before the
Federal Communications Commission
Washington DC 20554

In the Matter of)
)
Inquiry Concerning the Deployment of)
Advanced Telecommunications)
Capability to All Americans in a Reasonable) GN Docket
No. 07-45
and Timely Fashion, and Possible Steps)
to Accelerate Such Deployment)
Pursuant to Section 706 of the)
Telecommunications Act of 1996)

COMMENT TWO: TIMELY & REASONABLE QUESTIONED.

A) AMERICA IS 15th IN THE WORLD IN BROADBAND BECAUSE:

- 1) THE FCC'S BROADBAND DATA AND ANALYSIS WAS POLITICALLY
DRIVEN AND OMITTED THOUSANDS OF DOCUMENTS.
- 2) VERIZON, AT&T AND QWEST MISLED THE PUBLIC ABOUT THEIR
FIBER OPTIC PLANS..

B) "FORM 477" CAN NOT CAPTURE CRITICAL DATA.

C) VERIZON AND AT&T'S HYPE MUST BE CONSIDERED FOR AMERICA'S
FUTURE.

BY
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SUMMARY: America is 15th in the world in broadband because the FCC claimed that advanced services was being deployed on a timely and reasonable basis since 1998. This is because the FCC was politically motivated and the agency neglected to include thousands upon thousands of



documents, state Orders, annual reports and other sources, which showed that AT&T, Verizon and Qwest were not living up to commitments made to deploy 'advanced services'.

Form 477, the form the FCC uses to capture "timely and reasonable" information is nothing more than trying to put large square pegs into very small circular holes.

Let's outline some of the issues:

a) A History of Failures to Deploy, even though state commitments were done in exchange for massive financial incentives.

In 1995, the FCC released its second Video Competition report and had page after page of materials pertaining to the phone companies' request to offer video/cable services, known as 'video dialtone' over their networks. Here is a list of 24 applications to rewire 43 cities/states.

<http://www.newnetworks.com/videodialtonedeployment.htm>

And here's some quotes from the FCC's own report. Which the FCC did not cross-reference in 1998 to see what happened to ALL of the US fiber based deployments that the phone companies had stated would have major sections finished by 2000.

<http://www.newnetworks.com/fcc1995competition.htm>

- NYNEX's March 1995 authorization for two VDT systems, one in Rhode Island that will pass 63,000 homes and one in eastern Massachusetts that will pass 334,000 homes. NYNEX's applications, filed in July of 1994, proposed completion of construction in 2010. According to some trade press accounts, NYNEX is proceeding on target with a "cautiously aggressive" strategy with its VDT systems in eastern Massachusetts and Rhode Island.

- PacBell's August 1995 authorization for four VDT systems in California, which will pass 490,000 homes in San Francisco; 360,000 homes in Los Angeles; 259,000 homes in San Diego; and 210,000 homes in Orange County, California. PacBell's applications, originally filed in December 1993, proposed an advanced, wire based video and telephone network that would



be constructed sometime in 1996 at an expense of approximately \$16 billion.

Collusion with the other phone companies is apparent: Here's a series of other pages we scanned from the original documents.

- 1) Verizon claimed in 1993 it would be rolling out 'fiber to the curb' - NYNEX 1993 Annual Report.
<http://www.newnetworks.com/nynexfibercurb1993.htm>
- 2) Verizon claimed it would have 1.5-2 million lines installed by 1996 - NYNEX 1993 Annual Report
<http://www.newnetworks.com/nynex2millionlines1993.htm>
- 3) Verizon also snowed the Public and the public service commissions. Here is the PSC "Staff Report Assessing Network Modernization Needs", based on a NYNEX report "Vision of the Future" 1992.
<http://www.newnetworks.com/nypscfiberreport1992.htm>
- 4) NYNEX's was supposed to have about 16% of the state finished by 2000.
<http://www.newnetworks.com/nypscfibernumbers.htm>
- 5) Verizon's other promises: Maryland The PSC report shows that Maryland was supposed to have 100% fiber to the home completed by 2010
<http://www.newnetworks.com/nypscmarylandfiber.htm>
- 6) Verizon's other promises: New Jersey: The PSC report shows that NJ should have 100% fiber to the home "Broadband" completed by 2010
<http://www.newnetworks.com/njoppotunityfromnypsc.htm>
- 7) 45mbps: The definition used in the NJ state report clearly shows that "Broadband" was 45mbps, capable of high definition video in both directions. – 1993 NJBPU Par 1 <http://www.newnetworks.com/nj45mbpspar1.htm>
- 8) Bell Atlantic claimed it would have 8.75 million homes wired by 2000, and its plan was to go to each state to get "incentives to invest in new technologies"-- 1993 Bell Atlantic Annual Report.
<http://www.newnetworks.com/bellatlantic1993fiberplans.htm>
- 8a) In 1996, Bell Atlantic announced 12 million homes by 2000, including Philadelphia and Pittsburgh. <http://newscenter.verizon.com/press-releases/bell-atlantic/1996/page.jsp?itemID=29607541>
- 8b) In Massachusetts, Verizon promised in 1994 to have have 330,000 households wired immediately, the entire NYNEX territory by 2010.
<http://www.newnetworks.com/Massachusettsdeceptivefiber.htm>
- 8c) By 2000, Pacific Bell had made commitments to rewire 5.5 million homes in California. <http://www.newnetworks.com/cabroadbandpacbell.htm>
- 8d) Pac Bell closure: According to the San Diego Tribune, by 1997, after the merger of Pac Bell and SBC, all of the plans were closed down.
<http://www.newnetworks.com/californiabroadband.html>



8e) Ameritech claimed it would have 6 million homes rewired by 2000. Outcome: Instead it rolled out vanilla cable competition, then SBC sold off the properties in a fire-sale to WOW.

<http://www.newnetworks.com/ameritech1994annualreport.htm>

What is appalling – the FCC’s reports never included any of these statements or commitments as we pointed out in our 1998 filing, 1999 filing, 2001 etc.

Let’s then follow the commitments Deregulation as a profit center.

In IL, PA, MA, RI, OH, CA, TX, IN, MI, --- the list is most states in the US, a deal was cut --- in exchange for ‘deregulation

In 1997, the New Jersey Ratepayer Advocate wrote a scathing review of how Verizon had

<http://www.rpa.state.nj.us/onj.htm>

“The ONJ Plan replaced traditional rate-base/rate of return regulation with an incentive ratemaking system in exchange for, *inter alia*, a commitment from BA-NJ to greatly accelerate deployment of advanced technologies in its communications network to the entire State by the year 2010 at an estimated additional capital expenditure of approximately \$1.5 billion above "business as usual" from 1992 through 1999.² Through the incentive of alternative regulation under the ONJ Plan, BA-NJ was given the financial flexibility to operate in the new competitive telecommunications market in exchange for commitments to upgrade the network in order to realize "positive benefits" to the New Jersey economy.”

“BA-NJ has over earned, underspent and inequitably deployed advanced telecommunications technology to business customers, while largely neglecting schools and libraries, low-income and residential ratepayers and consumers in UEZs as well as urban and rural areas.”

In our Massachusetts complaint filed in 1999, we outline how the statements to deploy 330,000 lines was used to change state law – resulting in an additional \$1 billion in excess profits and growing.

<http://newnetworks.com/Masscomplaint.html>

And it harmed the economy: “Massachusetts role in the global economy has been stifled. Had Bell Atlantic provided services as



promised, Massachusetts could have been in the forefront of the global digital revolution. The benefits to the Massachusetts economy would have been substantial, the lost opportunity, immeasurable.”

The FCC should have done was to examine the commitments made in each state, including the monies to be spent, the deployment that was to take place, and to map their progress. Had FCC noticed the pattern – that America was NOT being upgraded (and each state told that story), we might not be sitting here wondering why America is 15th in broadband.

More to the point – Other countries actually spent the money on the networks for upgrades while America’s phone companies – Verizon, AT&T, and Qwest, took the money and ran.

D) Timeline to Nowhere. Failure to deploy was harmful.

In many states, timelines of deployment could have been cross-checked over the last decade. In New Jersey, Verizon is to have 100% of the state wired for 45mbps in both directions by 2010. 1993 NJBPU Par 1 Order:

<http://www.newnetworks.com/nj45mbpspar1.htm>

These were not only solid commitments, but the phone company also represented that this would increase jobs, tax revenue and other perks and that if the commitments did not occur, then it could have a detrimental harm to the state: (From the PAR 1 order, page 86)

"Staff indicates it is satisfied that the analysis submitted by NJ Bell, which quantifies certain benefits such as the potential new employment and increased tax revenues due to the accelerated infrastructure deployment, appears reasonable (STb138)"

"However, noting that these calculations have been predicated on the projected deployment of the network and are therefore wholly dependent upon the timely completion of ONJ, and accordingly, that any drastic deviation from the schedule as submitted by NJ Bell would have a direct and likely negative impact on the employment and tax revenue projections, Staff submits that it is, therefore, important for the Board to monitor ONJ and require NJ Bell to commit to achieving the entire plan, including fiber to the curb, so the projected benefits becomes a reality (STb138 to STb 139). Thus, in exchange for permitting



NJ Bell to be governed by an alternative form of regulation, Staff recommends that it is critical that the deployment scheme described in ONJ be considered a firm commitment on NJ Bell's part (STb140)."

E) Digital Divide Issues

The Pennsylvania law was very clear as described by the State Public Utility Commission.ⁱ

"Verizon PA has committed to making **20%** of its access lines in each of rural, suburban, and urban rate centers broadband capable within five days from the customer request date by **end of year 1998; 50% by 2004;** and 100% by 2015."

In virtually every state law, the companies were required to do the entire state without playing favoritism. They committed to rural, urban and suburban areas equally – rich or poor. These laws made sure that even the rural areas of the state received the same benefits as the other parts of the state. Why? Because as part of the utility upgrades, ALL customers are being charged through higher phone rates, and these rates were averaged throughout the state. Thus, ALL customers deserved the benefit of their 'investment'.

It is only the 'new' information service plans that would even suggest that the phone companies had all of the rights to pick and choose.

F) "Form 477" Can Not Capture Critical Data.

In rejecting our complaint against Chairman Martin's speech pertaining to broadband, it claimed that because the data did not fit into the standard "Form 477" it was not acceptable. And so we went from 12th in the world to 15th in the world still wondering why.

Response to Teletruth e-mail complaint dated July 26, 2005 - September 9, 2005

<http://www.fcc.gov/omd/dataquality/requests2005.html>

"The complaint asserts that the Commission violated the Data Quality Act by selecting 200 kilobits per second (kbps), in both directions, as a reference or benchmark definition ("benchmark") for evaluating the availability of "advanced telecommunications



capability" in the United States pursuant to section 706 of the Telecommunications Act of 1996, 47 U.S.C. 5 706nt. The complaint argues that the Commission further violated the Data Quality Act by relying on this benchmark in its recently released report entitled *High-Speed Services for Internet Access* and that the Commission should retract the report.' However, the *High-Speed Services Report* is based on data collected pursuant to definitions and forms adopted in the *Data Gathering Order* rulemaking that established this definition as a benchmark for reporting entities to use when submitting data to the Commission. A benchmark adopted as a matter of policy is not data or information subject to the Data Quality”.

What it does not say is that the questions we brought up were valid.

Form 477 (with the caveats being brought up by the GAO and others aside) is simply a snap shot of what is present. It does not address what was stated as commitments, and what was the progress of those commitments.

G) Going Forward: History Demonstrates that AT&T, Verizon and Qwest Should not be Trusted with Our Digital Future.

Here's the US dilemma – Since they were conceived, Verizon, AT&T and Qwest have been constantly hyping the marketplace. For a bit of cold reality, here is Southwestern Bell's 1986 statement about ISDN from their Annual Report.

Southwestern Bell, **1986** Annual Report

"At the forefront of new technology is ISDN. Scheduled for commercial **availability in 1988, ISDN will revolutionize day-to-day communications** by allowing simultaneous transmission of voice, data and images over a single telephone line."

And by 1988, Zane E Barnes, then Southwestern Bells' Chairman and CEO, stated:²⁶⁷



"Southwestern Bell company, the subsidiary that provides telephone network service, ***is bringing high tech home to millions of people.***

"In 1988, Southwestern Bell telephone company tested new services that ultimately could bring the Information Age to everyone in the company's five-state area. One of the links will be fiber optic cable which has more capabilities than standard telephone line."

The first poster-child of the Information Age, it later commonly became known as "It Still Does Nothing", even though the hype was that it would bring in a new age of technology and applications.

H) AT&T's Fiber Optic Schedule Has Been, As Expected, Nothing More Than Show.

This table from Light Reading highlights how AT&T's projections for deployment have been continually downgraded. For example, by 2007, 18 million were to be completed, moved to 2008, and then only 8 million is expected in 2007. Worse, the quotes did not include BellSouth, (which covered 12 states) even though the total projected lines have been seriously reduced.

Project Lightspeed/U-verse Projection Tracker

Date	Homes Passed Goal	Time Projected
November 2004	18 million	By 2007
February 2005	19 million	By 2007
March 2005	18 million	By 2007



December 2005	18 million	First half of 2008
February 2006	18 million	End of 2008
May 2006	19 million	End of 2008
March 2007	19 million	End of 2008, with 8 million passed in 2007 alone
May 2007	20,000	.025% (1/4 of 1%)

Source: Light Reading reports and SBC/AT&T public statements

As we wrote elsewhere, if history is our guide, these networks may never show up, much less in your community, much less in lower income areas. If there are 110 million households, how long will it take to have America rewired? Should America wait?

NOTE: There is a big difference between 'households' past – meaning they could potentially get service if they wanted it, vs actual customers using a service. The phone companies and even the FCC are guilty in hyping the market by giving the much larger number.

Because the FCC has no way of judging just how much hype the phone companies are applying to their deployments, if we depend on these companies without 'commitments', we're essentially at the mercy of the free-market companies who claim 'they own the wires'. Worse, the FCC gave them so many gifts, including the recent franchising decision to let them say to the states – we'll do what we want – that we're now in a position that America has been held hostage by the whims of large corporations who have continuously put shareholders before the public interest.

ⁱ Public Meeting held March 28, 2002 Re: Verizon Pennsylvania, Inc., Petition and Plan for Alternative Form of Regulation Under Chapter 30 2000 Biennial Update to Network Modernization Plan P-00930715